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IN THE UNITED STATES DISTRICT COURT
12
FOR THE DISTRICT OF ARIZONA

13 United States of America,

14 No. CR21-03061-TUC-JCH (MAA)

15 Plaintiff,

16 **SENTENCING MEMORANDUM**

17 vs.

18 **(Defendant Out of Custody)**

19 Jacob Allen Etchart, Sr.,

20 Defendant.

21 The defendant, through his counsel undersigned, hereby provides this Court
22 with the following memorandum of facts, law, and argument. Counsel asks the
23 Court to consider this Memorandum in its sentencing decision.

24

MEMORANDUM OF POINTS AND AUTHORITIES

25

I. INTRODUCTION

26 The defendant, Jacob Allen Etchart, Sr. waived prosecution by indictment and
27 pled guilty before this Court to Engaging in Business of Dealing Firearms Without
28 a License, 18 U.S.C. §§ 922(a)(1)(A) and 924(a)(1)(D). Jacob has no prior criminal
history, which places him in Criminal History Category I. The presentence report

1 writer, Willow Stokes, recommends a sentence of probation, based on a Total
2 Offense Level 15 and Criminal History Category I. Indeed, Jacob was released
3 on Personal Recognizance and has done exceptionally well on release – maintaining
4 gainful employment and leading a law-abiding lifestyle. For the reasons outlined
5 below, counsel undersigned requests that this Court sentence Jacob to **probation**.
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8 **II. BACKGROUND INFORMATION**

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A. Personal History

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11 Jacob is 46-years-old and an owner of a successful plumbing business since
12 February 2020. Jacob is married; and a father of five (5) children, three (3) of whom
13 are adults and two (2) twin teenagers who still live at home; the two (2) middle
14 children currently attend the University of Arizona; the oldest, his son, works for
15 Jacob at his plumbing business. He maintains a close relationship with his family.
16
17 Jacob was born in Tucson, Arizona and has two (2) siblings. Jacob's parents are
18 owner and co-owners of a plumbing business and had a great, wholesome childhood
19 that was free from abuse and trauma. Jacob was not exposed to domestic violence,
20 and no one abused drugs or alcohol in his home. Jacob married his high school
21 sweetheart, Michelle, in 1997 and remains married. Jacob's wife describes him as:
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25 “a wonderful man who cares so much about others. He always drops
26 everything to help anyone who needs it, and goes out of his way to
27 make sure others are taken care of, whether it be my parents, our 5 kids,
28 a family friend, relative, etc. He is a kind and respected member of our
community, and so very well-liked by everyone who meets him. He
truly is a wonderful husband, son, father, and friend.”

1 (See Letter from Michelle Etchart).

2 Jacob's oldest daughter, Mariah Etchart, speaks of her father:

3
4 "He is the most selfless, caring, hard working man I have ever met.
5 My dad has the highest quality character. Everybody loves my dad.
6 The reason my dad is so successful is because of his ability to put others
above himself; people know that they can trust him."

7 (See Letter from Mariah Etchart).

8
9 When not working as a plumber with this family business, Jacob enjoyed
10 buying and selling weapons and when the approximately 130 guns were seized,
11 Jacob lost approximately \$50,000 - \$100,000.00 of his money.

12
13 **B. Offense Conduct**

14 This case began with an investigation in September 2019. The investigation
15 continued throughout the months of March 2020 through March 2021. In December
16 2021, 2 years and 3 months later, Jacob was indicted. During the investigation, law
17 enforcement issued a search warrant that was executed on January 6, 2021, the
18 following items were recovered: assorted ammunition, including some issued by
19 U.S. Border Patrol; bills of sale, shipping boxes and labels, firearms documents, and
20 approximately 161 firearms and/or firearm components. Agents interviewed
21 Jacob's wife, Michelle, who estimated they owned approximately 20 firearms and
22 was under the impression her husband was abiding the law for the buying and selling
23 firearms, and a bill of sale was sufficient. Agents also spoke with Jacob who told
24 agents that he did not need a license to sell firearms in Arizona. Jacob stated he
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1 typically purchased as many firearms as he sold, and estimated selling approximately
2 16 firearms in 2020. He indicated he typically asked for the buyer's age, prior felony
3 convictions, prior commercial buying history, and a driver's license. Jacob stated
4 he had concerns about retaliation from gun purchasers. He was worried about being
5 blamed if a firearm he sold was connected to the cartel or other crimes. On March
6 4, 2021, agents spoke with a customer of Jacob who confirmed he purchased two
7 weapons from Jacob on December 17, 2020, for \$2,200. The purchaser stated Jacob
8 asked if he was prohibited possessor.

12 Receipts from one store in Tucson confirmed Jacob spent \$8,715.16 on
13 firearms and ammunition between May 9 and December 18, 2020. Records from
14 GunBroker.com revealed he paid \$20,374 between August 2017 and December 24,
15 2020, for the purchase of firearms and accessories.

18 Jacob accepts full responsibility for his actions and expresses genuine remorse
19 for his involvement in this offense. In his letter to the Court, he states:

21 I am incredibly thankful for my family and for the life we have
22 built. I'm also aware of how they fully depend on me. I would
23 like to continue to be able to provide for them, protect them,
24 and teach my sons the skills necessary to continue our family
25 business. I sincerely regret that my actions have put that at risk.
26 Please know that I fully understand the gravity of this charge,
27 and I humbly ask that you please consider my family when
28 deciding the outcome of this case.

1 **III. ARGUMENT UNDER GUIDELINES AND 18 U.S.C. § 3553**

2 **A. Introduction**

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4 When considering an appropriate sentence under 18 U.S.C. § 3553(a), the
5 district court must ensure the overall substantive reasonableness of the sentence.
6
7 *United States v. Vasquez-Cruz*, 692 F.3d 1001, 1006 (9th Cir. 2012). The district
8 court may not presume the Guidelines range is reasonable. *United States v. Carty*,
9 520 F.3d 984, 991 (9th Cir. 2008) (citations omitted). “The overarching statutory
10 charge for a district court is to ‘impose a sentence sufficient, but not greater than
11 necessary’ to reflect the seriousness of the offense, promote respect for the law, and
12 provide just punishment; to afford adequate deterrence; to protect the public; and to
13 provide the defendant with needed educational or vocational training, medical care,
14 or other correctional treatment.” *Id.* citing 18 U.S.C. § 3553(a); (a)(2).

15 **IV. CONCLUSION**

16
17 Jacob made some incredibly poor decisions, and his arrest and prosecution for
18 this offense have already had a significant effect on his life. He will have a hard
19 felony for the rest of his life, with all the restrictions that come along with that. Jacob
20 accepts responsibility for his actions. He knows that this blip on the radar does not
21 define him, and eventually, he will come out stronger than ever before.

22
23 For the foregoing reasons, a sentence of **probation** is sufficient but not greater
24 than necessary to achieve the aims of sentencing. See 18 U.S.C. § 3553(a). Jacob’s
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1 remorse, family support, and acceptance of responsibility justify the requested
2 sentence.
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4 RESPECTFULLY SUBMITTED this 14th day of February, 2024.

5 Law Office of
6 **HERNANDEZ & HAMILTON, PC**

7 /s/Clay Hernandez
8 CLAY HERNANDEZ
9 Attorney for Defendant

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1 **CERTIFICATE OF SERVICE**
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3 I, Linda Yrrizarry, do hereby certify that on this 14th day of February, 2024, I
4 electronically transmitted the foregoing documents to the Clerk's Office using the
5 CM/ECF System for filing, and transmittal of a Notice of Electronic Filing was sent
6 to the following recipients:

7 The Honorable John C. Hinderaker
8 United States District Court

9 Serra M. Tsethlikai, Assistant
10 United States Attorney's Office

11 Willow Stokes, Senior
12 United States Probation Department

13 Clay Hernandez
14 Attorney for Defendant

15 By s/Linda Yrrizarry
16 LINDA YRRIZARRY